

first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

§ 644. Taxable year of trusts

(a) In general

For purposes of this subtitle, the taxable year of any trust shall be the calendar year.

(b) Exception for trusts exempt from tax and charitable trusts

Subsection (a) shall not apply to a trust exempt from taxation under section 501(a) or to a trust described in section 4947(a)(1).

(Added Pub. L. 99-514, title XIV, § 1403(a), Oct. 22, 1986, 100 Stat. 2713, § 645; renumbered § 644, Pub. L. 105-34, title V, § 507(b)(1), Aug. 5, 1997, 111 Stat. 856.)

PRIOR PROVISIONS

A prior section 644, added Pub. L. 94-455, title VII, § 701(e)(1), Oct. 4, 1976, 90 Stat. 1578; amended Pub. L. 95-600, title VII, § 701(p)(1)-(3), Nov. 6, 1978, 92 Stat. 2908; Pub. L. 96-471, § 2(b)(4), Oct. 19, 1980, 94 Stat. 2254; Pub. L. 99-514, title XV, § 1511(c)(5), Oct. 22, 1986, 100 Stat. 2745, related to special rule for gain on property transferred to trust at less than fair market value, prior to repeal by Pub. L. 105-34, title V, § 507(b)(1), Aug. 5, 1997, 111 Stat. 856.

AMENDMENTS

1997—Pub. L. 105-34 renumbered section 645 of this title as this section.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title V, § 507(c)(2), Aug. 5, 1997, 111 Stat. 857, provided that: “The amendments made by subsection (b) [amending section 706 of this title, repealing section 644 of this title, and renumbering section 645 of this title as this section] shall apply to sales or exchanges after the date of the enactment of this Act [Aug. 5, 1997].”

EFFECTIVE DATE; TRANSITION RULE

Pub. L. 99-514, title XIV, § 1403(c), Oct. 22, 1986, 100 Stat. 2713, provided that:

“(1) EFFECTIVE DATE.—The amendments made by this section [enacting this section] shall apply to taxable years beginning after December 31, 1986.

“(2) TRANSITION RULE.—With respect to any trust beneficiary who is required to include in gross income amounts under sections 652(a) or 662(a) of the Internal Revenue Code of 1986 in the 1st taxable year of the beneficiary beginning after December 31, 1986, by reason of any short taxable year of the trust required by the amendments made by this section, such income shall be ratably included in the income of the trust beneficiary over the 4-taxable year period beginning with such taxable year.”

APPLICATION OF TRANSITION RULES TO TRUST BENEFICIARIES TO WHICH SECTION 664 APPLIES

Pub. L. 100-647, title I, § 1014(c), Nov. 10, 1988, 102 Stat. 3559, provided that:

“(1) If a beneficiary of a trust to which section 664 of the 1986 Code applies elects (at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe) to have this paragraph apply, such beneficiary shall be entitled to the benefits of section 1403(c)(2) of the Reform Act [Pub. L. 99-514, set out as an Effective Date; Transition Rule note above] with respect to amounts included in gross income under section 664(b) of the 1986 Code in the same manner as if such amounts were included in gross income under section 652(a) of the 1986 Code.

“(2) Any trust beneficiary may elect (at such time and in such manner as the Secretary of the Treasury or

his delegate may prescribe) to waive the benefits of section 1403(c)(2) of the Reform Act.

“(3)(A) For purposes of determining the gross income of any pass-thru entity, such pass-thru entity shall not be allowed the benefits of section 806(e)(2)(C) [Pub. L. 99-514, set out as an Effective Date of 1986 Amendment note under section 1378 of this title] (other than with respect to income from a common trust fund) or 1403(c)(2) of the Reform Act if such pass-thru entity is required to change its taxable year by reason of the amendments made by section 806 or 1403 of the Reform Act [Pub. L. 99-514, which enacted this section and amended sections 267, 441, 706, and 1378 of this title].

“(B) For purposes of subparagraph (A), the term ‘pass-thru entity’ means any trust, partnership, S corporation, or common trust fund.

“(4) If any trust was required to change its taxable year by the amendments made by section 1403 of the Reform Act [Pub. L. 99-514, which enacted this section], such change shall be treated as initiated by such trust and approved by the Secretary of the Treasury or his delegate.”

§ 645. Certain revocable trusts treated as part of estate

(a) General rule

For purposes of this subtitle, if both the executor (if any) of an estate and the trustee of a qualified revocable trust elect the treatment provided in this section, such trust shall be treated and taxed as part of such estate (and not as a separate trust) for all taxable years of the estate ending after the date of the decedent's death and before the applicable date.

(b) Definitions

For purposes of subsection (a)—

(1) Qualified revocable trust

The term “qualified revocable trust” means any trust (or portion thereof) which was treated under section 676 as owned by the decedent of the estate referred to in subsection (a) by reason of a power in the grantor (determined without regard to section 672(e)).

(2) Applicable date

The term “applicable date” means—

(A) if no return of tax imposed by chapter 11 is required to be filed, the date which is 2 years after the date of the decedent's death, and

(B) if such a return is required to be filed, the date which is 6 months after the date of the final determination of the liability for tax imposed by chapter 11.

(c) Election

The election under subsection (a) shall be made not later than the time prescribed for filing the return of tax imposed by this chapter for the first taxable year of the estate (determined with regard to extensions) and, once made, shall be irrevocable.

(Added Pub. L. 105-34, title XIII, § 1305(a), Aug. 5, 1997, 111 Stat. 1040, § 646; renumbered § 645, Pub. L. 105-206, title VI, § 6013(a)(1), July 22, 1998, 112 Stat. 819.)

PRIOR PROVISIONS

A prior section 645 was renumbered section 644 of this title.

AMENDMENTS

1998—Pub. L. 105-206 renumbered section 646 of this title as this section.